



9110-04-P

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

### **33 CFR Part 100**

**[Docket Number USCG-2018-0608]**

**RIN 1625-AA08**

### **Special Local Regulation; Battle of the Bridges, Intracoastal Waterway; Venice, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

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**SUMMARY:** The Coast Guard is establishing a temporary special local regulation for certain waters of the Intracoastal Waterway. This action is necessary to provide for the safety of life on these navigable waters in Venice, FL, during the Battle of the Bridges on September 15, 2018. This regulation prohibits persons and vessels from being in the race area unless authorized by the Captain of the Port St. Petersburg (COTP) or a designated representative.

**DATES:** This rule is effective from 7 a.m. until 7:30 p.m. on September 15, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2018-0608 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Marine Science Technician First Class Michael Shackleford, U.S. Coast Guard; telephone 813-228-2191, email [Michael.D.Shackleford@uscg.mil](mailto:Michael.D.Shackleford@uscg.mil).

## **SUPPLEMENTARY INFORMATION:**

### **I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

### **II. Background Information and Regulatory History**

On November 7, 2017, the Sarasota Scullers Youth Rowing Program notified the Coast Guard that it will be conducting the Battle of the Bridges sculler race from 7 a.m. to 7:30 p.m. on September 15, 2018. The race will take place in portions of the Intracoastal Waterway in Venice, FL. In response, on August 7, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Special Local Regulation; Battle of the Bridges, Intracoastal Waterway, Venice, FL (83 FR 38670). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended August 22, 2018, we did not receive any comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is needed to respond to the potential safety hazards associated with the running of the event on September 15, 2018.

### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1233. The Captain of the Port St. Petersburg (COTP) has determined that potential hazards

associated with the race to be a safety concern for anyone within area where the race is taking place. The purpose of this rule is to ensure safety of vessels and the navigable waters in the special local regulation during the scheduled event.

#### **IV. Discussion of Comments, Changes, and the Rule**

As noted above, we received no comments on our NPRM, which was published on August 7, 2018. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a special local regulation from 7 a.m. to 7:30 p.m. on September 15, 2018. The regulation would cover a race which would take place on approximately 3.5 miles of the Intracoastal Waterway starting near the Shamrock Park & Nature Center and ending near the Tamiami Trail Bridge in Venice, FL. The duration of the regulation is intended to ensure the safety of vessels and these navigable waters during the scheduled 7 a.m. to 7:30 p.m. race. No vessel or person would be permitted to enter the regulated area without obtaining permission from the COTP or a designated representative. Persons or vessels receiving permission to enter the regulated area must comply with the instructions of the COTP or a designated representative.

#### **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

##### **A. Regulatory Planning and Review**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory

approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-day of the special local regulation. Vessel traffic will be able to safely transit through this regulated area for urgent situations with COTP approval which impacts a designated area of the Intracoastal Waterway for 12.5 hours. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the regulation, and the rule allow vessels to seek permission to enter the zone.

#### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard did not receive any comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

*E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

*F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation which temporarily limits access to race participants only in certain portions of the Intracoastal Waterway in Venice, FL, except in emergency situations. It is categorically excluded from further review under paragraph

L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

**List of Subjects in 33 CFR Part 100**

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

**PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS**

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 33 CFR 1.05-1.

2. Add § 100.35T07-0195 to read as follows:

**§ 100.35T07-0195 Special Local Regulation; Battle of the Bridges, Intracoastal Waterway; Venice, FL.**

(a) Regulated area. A regulated area is established to include a race area located on all waters of the Intracoastal Waterway south of a line made connecting the following

points: 27°06'15'' N, 082°26'43'' W, to position 27°06'12'' N, 082°26'43'' W, and all waters of the Intracoastal Waterway north of a line made connecting the following points: 27°03'21'' N, 082°26'17'' W, to position 27°03'19'' N, 082°26'15'' W. All coordinates are North American Datum 1983.

b) Definitions. The term “designated representative” means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the COTP St. Petersburg in the enforcement of the regulated areas.

(c) Regulations. (1) All non-participant persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the race area unless authorized by the Captain of the Port (COTP) St. Petersburg or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the race area may contact the COTP St. Petersburg by telephone at (727) 824-7506 or via VHF-FM radio Channel 16 to request authorization.

(3) If authorization to enter, transit through, anchor in, or remain within the race area is granted, all persons and vessels receiving such authorization shall comply with the instructions of the COTP or a designated representative.

(4) The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, or by on-scene designated representatives.



(d) Enforcement period. This rule will be enforced from 7 a.m. until 7:30 p.m. on  
September 15, 2018

Holly L. Najarian,  
Captain, U.S. Coast Guard,  
Captain of the Port Saint Petersburg

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